



Austin City Council MINUTES

For

AUGUST 8, 1983 - 4:00 P.M.
SPECIAL CALLED MEETING

Council Chambers, 307 West Second Street, Austin, Texas

City Council

Ron Mullen
Mayor

John Treviño, Jr.
Mayor Pro Tem

Council Members

Mark Rose
Roger Duncan
Sally Shipman
Mark E. Spaeth
Charles E. Urdy

Jorge Carrasco
City Manager

Elden Aldridge
City Clerk

Memorandum To:

Mayor Mullen called the special meeting to order, noting the presence of all Councilmembers.

Mayor Mullen stated that this was a Special Called Meeting for the purpose of discussing and taking appropriate action on the transfer of the Harlem Cab Company Franchise.

Terry Irion, said, "Council can't prohibit an individual from selling his shares of stock to whoever he wants to sell it to. What the Council can do is determine what rights or privileges that were granted under the franchise are being transferred to another entity and they can prohibit that."

Councilmember Spaeth asked, "At what point is it being known that this is really not just a stock transfer but a merger?"

Jonathan Davis, Acting City Attorney, answered, "At the time we first heard about this it was reported to be just a straight stock transfer. We have heard nothing from the person from whom it was transferred to the contrary. Whether that constitutes a transfer of right privilege or grant of franchise is something that this Council has got to decide."

Councilmember Urdy asked, "If control of interest is sold isn't that different from what we might consider to be a stock transfer?" Jonathan Davis said that there would be no difference.

Councilmember Rose asked, "If you have conveyed all of the stock in a company how have you not conveyed the franchise?"

Terry Irion answered, "Transfer of shares of stock in and of itself is not the issue. The issue as our ordinance not is set is transfer of privileges of the franchise."

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Jim Benson, Director of Urban Transportation, read the following

memo:

At Thursday's City Council meeting, several issues were raised in conjunction with the taxicab franchises. The purpose of this memorandum is to provide a brief status report on our review and investigations to date.

During the public hearing, Mr. Ronnie Means indicated that Yellow-Checker Cab Company of Austin, Inc. had been late in their payment of their taxicab franchise permit fees. Last September while reviewing the request for additional permits, it came to our attention that Yellow-Checker Cab Company was indeed behind in the payment of their fees. This was an administrative oversight on the part of the Urban Transportation Department and should have been detected sooner. Steps were taken at that time to assure that this situation would not occur again in the future. When this delinquency in fees was brought to our attention, we immediately contacted the cab company and demanded payment. The cab company indicated that they had withheld payment of their fees pending reimbursement from the City of Austin for Special Transit transportation services. Following a check with the City's Legal Department, we notified Yellow-Checker Cab Company that they could not withhold their franchise fees payment pending payment for their Special Transit expenses. They proceeded to immediately issue a check for the amount due in fees. This check was deposited and returned for insufficient funds. Upon notifying the franchise holder, they proceeded to provide a cashier's check for the fees. In view of this problem, the Urban Transportation Department has required that all subsequent payments be tendered in cash or by cashier's check payable to the City of Austin.

Mr. Means also indicated that Yellow-Checker Cab Company of Austin was also delinquent in the payment of their 1981 property taxes. We have verified with the City's Tax Office that this information is correct and that the City has already initiated the appropriate procedures for the collection of these delinquent taxes. It is our understanding that the total tax due is \$2,433 plus penalties and interest. We will proceed to work with the Legal Department to determine what impact this delinquency on taxes has on the franchise agreement and what course of action may be available to the City.

During the public hearing, Mr. Carlos Velasquez, representing Roy's Taxi Service, Inc., inferred that a report was due to the City Council in February, 1983 from the Urban Transportation Department so that action could be taken on his pending permit request. Mr. Velasquez also indicated that the Urban Transportation Department had been instructed to hold quarterly meetings with the franchise holders. To respond to this, our staff has gone back and listened to the tapes of the two public hearings held in November, 1982. We could find no discussion or request from Council for any quarterly meetings with the franchise holders. It is also our understanding that the permit requests would not be brought forward to Council attention until additional response time data was provided by the franchise holders to substantiate their claim for public convenience and necessity in the granting of additional permits. Whenever one or more of the franchise holders are ready to bring forward this additional information, we will immediately proceed to schedule this item for Council consideration.

During the public hearing there was a number of general concerns regarding the Urban Transportation Department's role in administering the taxicab franchise ordinances. Most of our regulatory activity with regard to taxicabs is directed toward the quarterly inspections of vehicles, the checking of meter accuracy inspections, registration of taxicab drivers and the issuance of City Chauffeur's licenses, investigate citizens' complaints and a limited number of field checks of taxicab vehicles. The Urban Transportation Department currently has one person assigned to the duties of taxicab inspection. This person spends approximately 85 percent of his time on the items listed above. We simply do not have the personnel resources for a major field policing of the taxicab industry. Indeed it is the franchise holders responsibility to assure drivers operating under their franchise do so in compliance with the City's franchise ordinances.

Mayor Mullen asked, "Doesn't one of the portions in the ordinance deal with the ability of the person that has the franchise to have a good financial base that can be assured that things are taken care of?"

Terry Irion answered, "There is a provision in the ordinance that non-payment of franchise fees and taxes is grounds for revocation"

Motion

Councilmember Urdy moved that Council not approve transfer of anything pending resolution of questions.

Friendly Amendment

Councilmember Duncan said, "I think Dr. Urdy should add to that that this certainly has all of the appearances of the franchise being transferred in terms of facility, equipment, dispatchers, and so forth."

Terry Davis, an attorney, said that the transfer of stock does not need Council approval.

David Orr, attorney for Great Southwestern Transportation, Inc., said that legal action is premature.

Terry Davis stated, "I hope that any action taken by the Council would be for future transfers, not this one."

Councilmember Spaeth asked the City Attorney, "Can we make the decision to stop stock transfer?" The City Attorney told him it would take more than a stock transfer for Council to stop action.

Councilmember Duncan said, "As of right now we are not authorizing any transfer of the franchise."

George Henry stated, "If Harlem Cab Company operates out of a separate dispatch facility with separate telephone numbers, separate personnel operating the dispatch service, then there would be no change in the franchise."

Councilmember Urdy asked, "In the event that some things are done in a fast moving pace, do we not have the authority to issue a temporary permit?" Mayor Mullen said Council could issue a temporary permit.

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Terry Irion wants everything separate, not merge terminals, communications facilities.

Motion

The Council, on Councilmember Urdy's motion and Councilmember Duncan's second, passed a motion to not approve any transfer pending resolution of questions. (7-0 vote)

ADJOURNMENT

The Council adjourned the special meeting at 5:20 P.M.